

875—35.4(91A) Investigation.

35.4(1) Receipt of wage claim form. Upon receipt by the division of a completed and signed wage claim form from an aggrieved employee, the commissioner shall review the claim for wages and the allegations therein. The commissioner's review is not to be construed as a contested case as defined in Iowa Code chapter 17A.

35.4(2) Employer notification of wage claim. The commissioner shall notify the employer in writing of the allegations of the claimant and shall request a response from the employer within 14 days from the date of the letter. This period may be extended by the commissioner for good cause.

35.4(3) Failure of employer to respond. If the employer fails to answer the commissioner's request for response within the 14-day period, or as extended by the commissioner, the commissioner may determine the claim to be enforceable.

35.4(4) Additional information from claimant. If the employer answers the commissioner's request for response within the established time, the commissioner shall notify the claimant of the employer's response and afford the claimant an opportunity to present additional information in support of the claim for wages. The claimant shall submit the requested additional information within 14 days from the date of the letter. This period may be extended by the commissioner for good cause.

35.4(5) Additional information from employer. Upon receipt of the requested additional information from the employee, the commissioner may determine additional information is required from the employer.

35.4(6) Determination of enforceability. Upon receipt of sufficient information, the commissioner may determine the claim for wages to be enforceable and the commissioner shall notify the claimant and the employer of that determination.

35.4(7) Determination of unenforceability. The commissioner may, at any time, determine a claim to be unenforceable. Should the commissioner determine the claim is unenforceable, the commissioner shall so notify the claimant. Reasons for the commissioner to determine that a claim is unenforceable include, but are not limited to, the following:

- a. Doubtful legal validity or complexity of the claim.
- b. Doubtful ability to collect money from the employer.
- c. The claim may require extensive discovery or involve protracted proceedings.
- d. The potential value of the claim is such that the cost of the claimant's obtaining legal counsel for a private action would not be prohibitive.
- e. The claimant is not responsive to the reasonable requests of the division, including, but not limited to, requests to provide information and to participate in a legal action.
- f. The claimant fails to notify the division of an address change.
- g. The inequity of the claim in the particular situation.
- h. Another jurisdiction or forum is preferable for the claim.
- i. A substantial probability that the claimant was not an employee.
- j. The claim has been included in a bankruptcy estate.

35.4(8) Settlement of claim. The commissioner may settle a claim at any time with the consent of the claimant. Such consent may be included on the wage claim form.